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The 2010 PI renewal and beyond

The 2010 renewal continues to be the most challenging for many years. Underwriters have been keen to recoup losses through increased premiums although the entry of new providers in the past 10-14 days is now leading to falling premium quotes.

Our bullet point guide highlights the key areas that can cause difficulty and provides advice about how best to navigate the stormy waters of this year's renewal and enable you to prepare well for the 2011 renewal, which could be at least as difficult again.

- **The nature of the firm's work** – low value/high volume conveyancing or high value/low volume conveyancing, clinical negligence or blood and bent metal Personal Injury, Company/Commercial work – whatever your firm does an informative and incisive explanation of the precise make up of the workload of your firm is imperative. Do not slavishly shoehorn what you do into the tick boxes in the form. Complete the additional information boxes to tell insurers about your firm.
- **Level of cover** – do not seek more than the minimum required unless you really need it (£2m for sole practitioners and partnerships, £3m for incorporated firms). Remember that the cover afforded by The Minimum Terms is for each and every claim. However, beware:
 - Aggregation, and
 - Remember top-up layers are capable of avoidance, unlike the primary layer.
- **Mergers and other significant changes** – more firms have merged and are adjusting the range of work undertaken to meet the forthcoming challenges from full implementation of the Legal Services Act. Such changes call for careful explanation to maximise your chances of renewal especially if moving into what is perceived as a “high-risk area”. Due diligence is key and the areas to watch out for are: complaints record, insurance notifications/claims and whether the firm is running profitably or barely scraping by. Financial issues are a topic in which insurers are becoming increasingly interested.
- **Record keeping** – Make sure you understand the difference between a notification and a circumstance and the implications of each making sure you notify when appropriate otherwise you will find Insurers meeting the claim but seeking reimbursement from your firm. If you have secured your cover for this year don't forget its never too early to start preparing for next year's renewal. Do keep records of work undertaken during the course of the year particularly conveyancing where it is now routine to provide details of buy to let transactions as well as number of completions and lenders' panels.

- **Professional history** – do you clearly understand the personal and professional history of each of your staff? Have you reviewed their CVs, individual claims records and regulatory record? Even an appearance before the Tribunal need not necessarily mean the end of your insurance hopes this renewal. Ensure employees provide details of criminal convictions, employment by firms which have been in the ARP and employment in firms which have failed to pay insurance premiums or have been subject to intervention or other regulatory involvement. Be especially careful to check with those joining part-way through an insurance year.
- **Complaints record** – how many of your complaints became adjudications? How many were resolved informally through LCS sponsored mediation? This could make a difference to your premium. If you have compromised a complaint this is not a finding and does not necessarily need to be disclosed on your proposal form.
- **Risk management** – do you have Lexcel or equivalent accreditations? Are you seeking LEXCEL accreditation? If so let insurers know even if you have only started down the path of accreditation or have joined the commitment scheme. Even without these badges you may still be able to establish good quality risk management that can lead to renewal and a lower premium. Let insurers know if your firm is the holder of a LSC franchise. Peer reviews are more demanding than the requirements of LEXCEL.
- **It's all in the question** – a careful reading of the questions in each proposal form could reward you with renewal at lower premiums. Additional information boxes are an opportunity for you to explain in greater detail the kind of work your firm undertakes and its level of specialisation etc. Proposal forms are like tenders, they are an opportunity to sell your firm to underwriters as a well managed firm of specialists who know their sectors well and are therefore less likely to suffer a claim.
- **Broker or direct?** It's another key issue. Brokers can be extremely helpful in placing insurance. However, do not sign up to the first broker who sends you a mail shot. This year more than ever choice of broker is a key relationship to get right and care needs to be taken to ensure you retain a broker with the right underwriting relationships and the necessary experience to secure the right deal for your firm. Look at the Law Society web site. It provides a list of all insurers and the firms they will cover. Don't send your proposal to too many brokers. Choose your brokers carefully.

The SRA have made significant changes to the cover afforded by the Minimum Terms and Conditions for the 2010/11 insurance year. Some of these are prejudicial to solicitors, for example, the removal

of defence costs cover in professional negligence claims that lead to regulatory investigation. The PI policy is a Claims Made policy and such changes only affect claims notified in 2010-2011. Prior year claims still provide costs cover in such cases.

We are in discussion with insurers who may soon be providing stand alone defence costs insurance.

For practical advice or just a no-obligation chat about any of the issues raised please contact Sabina Rinker on sabinarinker@guisesolicitors.co.uk or call Sabina on 020 7264 0353.

This technical paper has been written as a general guide only. It should not be relied upon as a substitute for specific legal advice. No responsibility can be accepted by the author or the firm for any loss occasioned as a consequence of acting or refraining from action on the basis of this paper.

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